

BQC - 91 – 004

Date: March 22, 1991

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From: Larry Tainter, Director
Bureau of Quality Assurance

Subject: Federal Requirements for Training, Testing and Documenting Competency of Home Health and Hospice Aides

The purpose of this memo is to clarify federal home health documentation requirements related to aide training and to inform you of changes in federal law regarding agencies offering training and testing.

Documentation Requirements

The regulation regarding documentation is at CFR 484.36(b)(5) and reads as follows:

Documentation of competency evaluation. The HHA must maintain documentation which demonstrates that the requirements of this standard are met.

This requirement applies to all home health agencies and hospices participating in the Medicare and Medicaid programs. The standard that is referenced covers both competency evaluation and inservice training.

The bureau has received several inquiries regarding what documentation is necessary to meet the standard, and we have sent under separate cover (BQC memo 90-067, dated 8/20/90) a program letter from the Health Care Financing Administration that addresses this issue. The purpose of this memo is to elaborate upon these documentation issues.

Initial Competency Evaluation Requirements

If an aide successfully completes a training and/or competency evaluation program approved by the Bureau of Quality Compliance, the HHA or hospice need not document the qualifications of instructors/examiners and the content of the program because this information is part of the program review which is on file in the Bureau of Quality Compliance.

State approved competency evaluation programs have been advised that they may not share the specific contents of their testing programs with any agency because of the need to keep testing protocols confidential. The home health agency or hospice is not required to have this information in their files to prove that they are in compliance with federal regulations.

The competency evaluation program is expected to transmit information indicating the aide has successfully completed the competency evaluation program to the employer. The home health agency or hospice should include this information in their records as documentation that the competency evaluation requirement is met.

All competency evaluation programs approved as meeting federal home health requirements require successful completion of all 12 functional areas described in the federal regulations.

If home health agencies have their aides competency evaluated other than through a Department approved program, they must maintain documentation of aide competency as outlined in the August 22, 1990 BQC memo 90-067.

As of 10/1/90, the date state law requirements for aide training and testing are in effect, all individuals who need competency testing must successfully complete a program approved by the Bureau. Currently, some state approved competency programs do not meet federal home health aide requirements, so it's important that HHAs who are federally certified are using programs approved as meeting federal requirements. With the promulgation of HSS 129, the administrative code for certifying instructional and testing programs, which is expected around May 1, 1991, all approved competency programs will need to meet all state and federal requirements.

Home health aides who meet a state requirement for inclusion (e.g., grandparenting) in the registry, may be tested for meeting federal home health aide competency requirements by their employing agency providing the agency meets the applicable provisions in federal law.

Agencies Permitted to Offer Training and Testing Programs

Prior to the passage of the Omnibus Budget Reconciliation Act of 1990, Medicare certified home health agencies could not provide a home health aide training program, a home health aide competency program or an inservice program if the agency was out of compliance with any HHA conditions of participation within the previous 24 months.

These limitations on agency training and testing were changed by OBRA 1990. the law, section 1891(a)(3)(D)(iii) of the Social Security Act, now prohibits home health agencies from providing training, home health aide competency or inservice programs if within the previous 2 years the agency:

(I) Has been determined to be out of compliance with subparagraph (A), (B), or (C):

Subparagraphs (A), (B), and (C) are the requirements in OBRA 1987 that cover aide training and competency testing; they are incorporated into federal regulations at CFR 484.36 Condition of Participation Home Health Aide Services.

(II) Has been subject to an extended (or partial extended) survey.

Partial extended and extended surveys will be implemented with the new home health survey process beginning in spring, 1991.

(III) Has been assessed a civil money penalty not less than \$5,000.

HCFA has not yet implemented the regulations or guidelines for Medicare intermediate sanctions for home health agencies.

(IV) Has been subject to the remedies described in subsection (e)(q) or in clauses (ii) or (iii) of subsection (f)(2)(A).

These remedies include provider agreement termination, suspension or payments for new admissions, or temporary management of the home health agency.

Additionally the amendments of OBRA 1990 are in:

“effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, except that the Secretary may not permit approval of a training and competency evaluation program or a competency evaluation program offered by or in a home health agency which, pursuant to and Federal or State law within the 2-year period beginning on October 1, 1988-

- (i) had its participation terminated under Title XVIII of the Social Security Act;
- (ii) was assessed a civil money penalty not less than \$5,000 for deficiencies in applicable quality standards for home health agencies;
- (iii) was subject to suspension by the Secretary of all or part of the payments to which it would otherwise be entitled under such title.
- (iv) operated under a temporary management appointed to oversee the operation of the agency and to ensure the health and safety of the agency's patients; or
- (v) pursuant to State actions, was closed or had its residents transferred.”

When the HHA performs this competency evaluation for aides, they must maintain the following documentation in their agency files. Please refer also to 484.36 of the federal home health agency regulations.

-A description of the training and competency evaluation or competency evaluation program. This documentation must include the curriculum of the instructional program, program hours and resources. The documentation for a competency evaluation program must include samples of any written tests with pass/fail criteria. Required skills tested by either written/oral or demonstration are to be noted. The skills demonstration component must outline benchmarks (indicators) and pass/fail criteria.

-The qualifications of instructors/examiners.

-The skills description must also include which skills were taught at the bedside and which were taught in a laboratory setting.

-A description of how skills beyond those listed in 484.36 are taught and tested.

Ongoing Inservice Training Requirements

The federal home health requirements require at least 3 hours of inservice training per quarter. A home health agency which meets any of the above prohibitions on offering training and testing programs may not conduct its own inservice programs; all others may conduct the inservice training. The regulations require that the inservices programs be conducted by a registered nurse who has a minimum of 2 years of nursing experience with one of the years being in the provision of home health care and who has supervised home health aide services for at least 6 months.

The qualifications of the instructor(s), contents of the inservice programs and the attendance of the aides must be documented. The contents of the inservice programs should reflect the needs of the home health agency's patients, namely, the cares the aides perform.

If you have any further questions or comments, please contact Allen Stegemann at (608) 266-2055.

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